

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Susruta Sudula	Team: Team # 2	CCRB Case #: 201209521	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/25/2012 12:10 AM	Location of Incident: § 87(2)(b)		Precinct: 67	18 Mo. SOL 1/25/2014	EO SOL 1/25/2014
Date/Time CV Reported Wed, 07/25/2012 10:15 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/25/2012 10:15 AM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Krishna Tandrian	15701	949713	PBBS		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POM Mark Demarco	03456	948870	067 PCT		
<b>Officer(s)</b>	<b>Allegation</b>			<b>Investigator Recommendation</b>	
A.POM Krishna Tandrian	Abuse: PO Krishna Tandrian entered § 87(2)(b) in Brooklyn.				

### Case Summary

On July 25, 2012, § 87(2)(b) filed the following complaint via phone at the CCRB (encl. 4A-B). On July 25, 2012, at approximately 12:10 a.m., § 87(2)(b) was sitting with his friend, § 87(2)(b) on the stoop of her residence. § 87(2)(b) was drinking a beverage from a red plastic cup. The following allegation resulted:

- **Allegation A: Abuse of Authority- PO Krishna Tandrian entered § 87(2)(b) in Brooklyn**

§ 87(2)(g)

§ 87(2)(b) declined mediation.

### Results of Investigation

#### Civilian Statement

**Complainant/ Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b), 5'10" tall, 205 pound, Black man with black hair and black eyes.

#### CCRB Testimony

§ 87(2)(b) provided a statement at the CCRB on August 14, 2012 (encl. 5A-E). On July 25, 2012, at approximately 12:10 a.m., § 87(2)(b) was sitting outside of § 87(2)(b)'s private residence, located at § 87(2)(b) in Brooklyn. § 87(2)(b) and § 87(2)(b) were sitting on the steps on the opposite side of a locked fence that separated the home from the street. § 87(2)(b) had a red, opaque cup in his hand, which contained four drops of Coca-Cola. A police car passed the residence very slowly and did two U-turns before pulling up alongside § 87(2)(b)'s home.

Two police officers exited the car. The passenger, PO1, approached § 87(2)(b)'s home, while PO2, the driver, stood outside the police vehicle. PO1, identified through investigation as PO Krishna Tandrian, was described as a 5'10" tall, clean shaven Indian man with dark hair and no glasses. PO2 was described as Asian man and shorter than PO Tandrian. PO2 remains unidentified. § 87(2)(b) asked PO Tandrian what he could do for the officer, but PO Tandrian did not respond. PO Tandrian reached over the gate, unlocked it and entered the premises. Neither § 87(2)(b) nor § 87(2)(b) gave the officer permission to unlock the gate and enter the premises. § 87(2)(b) verbally objected to PO Tandrian's entrance and questioned PO Tandrian's actions by asking PO Tandrian why was he reaching over the gate when he was never invited to enter. PO Tandrian responded that, contrary to popular belief, one cannot sit there and have a drink. § 87(2)(b) stated that he never said he was drinking. § 87(2)(b) did not verbally object because § 87(2)(b) told her not to say anything.

PO Tandrian walked to § 87(2)(b)'s cup and asked him what was in the cup. § 87(2)(b) did not answer him. PO Tandrian took § 87(2)(b)'s cup and emptied the remaining contents onto the ground. § 87(2)(b) cannot remember if PO Tandrian smelled the contents of the red cup. There was a Heineken bottle and a water bottle five feet away from § 87(2)(b) near a garbage can. § 87(2)(b) did not know whether the bottles were empty. PO Tandrian saw the Heineken bottle and stated that he could assume that the contents of the Heineken bottle were in § 87(2)(b)'s cup. PO Tandrian asked § 87(2)(b) for his ID. § 87(2)(b) searched through his pockets, looking for his

ID, but he could not find it. § 87(2)(b) thought that he may have left it in his car, so § 87(2)(b) went to search his vehicle.

At this point, § 87(2)(b) recalled seeing two other officers, PO3 and PO4, walking toward him. § 87(2)(b) did not see or hear PO Tandrian or PO2 making a radio call for additional officers. PO3 and PO4 were described as heavyset. PO2, PO3 and PO4 followed § 87(2)(b). § 87(2)(b) still could not find his ID so he removed some mail and his credit card to show the officer. PO Tandrian attempted to record § 87(2)(b)'s credit card information, but § 87(2)(b) requested his card back. § 87(2)(b) went and sat on the steps and searched through his pockets again, at which point he found his ID. § 87(2)(b) showed his ID to PO Tandrian.

PO Tandrian sat in his car for five to seven minutes and then returned. PO Tandrian issued § 87(2)(b) a summons § 87(2)(a) 160.50 § 87(2)(b) had not consumed any alcohol that day. § 87(2)(b) went to the precinct after the incident. § 87(2)(b) asked an officer at the stationhouse for the identity of the officer who issued him the summons, and the officer provided him a name. § 87(2)(b) could not recall the name, but did provide the summons, with a legible tax number (949713).

### **Attempts to Contact Civilians**

Between August 15, 2012 and October 2, 2012, eight phone calls were placed to § 87(2)(b). On September 25, 2012 and October 3, 2012, two please call letters were sent. To date, § 87(2)(b) has failed to contact the CCRB and provide a statement with regards to the incident.

### **NYPD Statements:**

#### **Subject Officer: PO KRISHNA TANDRIAN**

- *PO Tandrian, a 5'11" tall, 200 pound Asian man with black hair and brown eyes, worked from 7:30 p.m. on July 24, 2012 to 4:05 a.m. the next day. PO Tandrian was assigned to routine patrol and believed he was working with PO Mark Demarco. They were assigned to a marked patrol car.*

### **Memo Book**

On July 25, 2012 at 12:10 a.m., one male was stopped opposite of § 87(2)(b) § 87(2)(a) 160.50. § 87(2)(b)'s address is § 87(2)(b), Brooklyn NY 11225 and his D.O.B. is § 87(2)(b). § 87(2)(b) had a red cup of Guinness with a 120 L Guinness on the floor in close proximity. Summons § 87(2)(a) 160.50

### **CCRB Testimony**

PO Tandrian provided a statement at the CCRB on January 18, 2013 (encl. 6A-F). On July 25, 2012, at approximately 12:10 am, PO Tandrian was in his patrol car when he observed § 87(2)(b) on a stoop with a red cup in his hand. Though there was a Guinness bottle a few inches away from § 87(2)(b) PO Tandrian was not sure if he saw it at this time, though he stated that it was likely that he had. PO Tandrian could not recall whether he or his partner was operating the vehicle and could not remember who saw § 87(2)(b) first. PO Tandrian stated that he was likely working with PO Demarco.

There was a female sitting with § 87(2)(b) on the stoop as well. PO Tandrian could not recall if there was a gate that was able to close on the premises, but stated that regardless, he believed that the gate was open when he arrived on the scene. PO Tandrian did not remember if § 87(2)(b) objected to entering the premises.

Both PO Tandrian and PO2 approached § 87(2)(b) but PO Tandrian interacted with § 87(2)(b) the most and could not remember if PO2 spoke to § 87(2)(b) at all. PO Tandrian could not recall if he interacted with the woman as his focus was § 87(2)(b). PO Tandrian asked § 87(2)(b) what was in his cup. PO Tandrian could not recall what § 87(2)(b) initially stated, but said that § 87(2)(b) did later admit that there was beer in the cup. PO Tandrian saw that there was a brownish liquid in the cup and verified that it was alcohol by asking § 87(2)(b) and smelling the cup. The liquid in the cup matched the color of the liquid in the bottle of Guinness that was next to § 87(2)(b). PO Tandrian did not take the cup from § 87(2)(b) and did not pour its contents out.

PO Tandrian asked § 87(2)(b) for his ID, but did not recall if § 87(2)(b) had it on him at the time. PO Tandrian wrote down § 87(2)(b)'s name and date of birth, which he then verified using his computer system. § 87(2)(b) then walked over to his car to look for additional identification. § 87(2)(b) may have shown PO Tandrian his credit card in order to confirm his name. PO Tandrian then issued § 87(2)(b) a summons § 87(2)(a) 160.50.

During the incident, § 87(2)(b) was agitated and cursed, but did not yell. PO Tandrian could not discern § 87(2)(b)'s level of intoxication, but stated that he was drinking. PO Tandrian did not remember calling for additional officers. There were no officers who had been walking by during the interaction, who then stopped and assisted. PO Tandrian stated that another possibility was that other patrol car may have driven by, which may have then been flagged down by the officers.

**Witness Officer: PO MARK DEMARCO**

- *PO Demarco, a 5'11" tall, 200 pound white man with black hair and brown eyes, was working from 7:30 p.m. on July 24, 2012 to 4:05 a.m. the next day. PO Demarco was the sergeant operator and was working with Sgt. Dianni. He was in uniform and assigned to a marked patrol car.*

**Memo Book**

There are no memo book entries regarding this incident.

**CCRB Testimony**

PO Demarco provided a statement to the CCRB on March 7, 2013 (encl. 7A-F). On July 25, 2012, at approximately 12:10 a.m., PO Demarco was at the precinct stationhouse processing six arrests he made at 10:13 p.m. on July 24, 2012. He was at the stationhouse processing these arrests until 3:40 a.m. during his tour the following day. § 87(2)(g)

**Officers Not Interviewed**

Although PO Tandrian was working with another officer at the time of the incident, this officer could not be identified. § 87(2)(g)

**Summons/Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

**Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 8, 2013, four months after the 90 day filing deadline, with regard to the incident (encl. 13E).

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian CCRB History**

§ 87(2)(b) has filed the following CCRB complaints:

- § 87(2)(b)

§ 87(2)(g)

### **Subject Officer CCRB History**

- PO Tandrian has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 1A).

### **Conclusion**

### **Identification of Subject Officer**

PO Tandrian acknowledged his interaction with § 87(2)(b)

### **Investigative Findings and Recommendations**

#### **Allegation A: Abuse of Authority- PO Krishna Tandrian entered § 87(2)(b) in Brooklyn.**

It is undisputed that § 87(2)(b) was sitting on the stoop of § 87(2)(b) in Brooklyn, holding a red cup, and that there was an alcohol bottle on the ground near § 87(2)(b). It is also undisputed that PO Tandrian passed a gate and walked up to the stoop to issue § 87(2)(b) a summons.

§ 87(2)(g)

§ 87(2)(b) stated that he had been drinking Coca-Cola and the alcohol bottle on the ground did not belong to him. § 87(2)(b) also stated that PO Tandrian unlocked the gate and entered the premises, despite objections from § 87(2)(b).

PO Tandrian was in his patrol car when he observed § 87(2)(b) on a stoop with a red cup in his hand. Though there was a Guinness bottle a few inches away from § 87(2)(b), PO Tandrian was not sure if he saw it when he initially observed § 87(2)(b). PO Tandrian could not recall if there was a gate that was able to close on the premises, but stated that he believed that the gate was open when he arrived on the scene. PO Tandrian did not remember if § 87(2)(b) objected to his entry onto the premises. PO Tandrian stated that § 87(2)(b) admitted to drinking beer. PO Tandrian also confirmed that the contents of the red cup were the same color as the contents of the alcohol bottle on the floor, and the cup smelled of alcohol.

Absent consent or exigent circumstances, the curtilage of a home cannot be entered by police without a warrant. Courts consider four factors to determine whether an area is part of the curtilage of a home: 1) proximity to the home; 2) whether the area is within an enclosure surrounding the home; 3) the nature of the uses of the area, and; 4) the steps taken to protect the area from observation by passerby. United States v. Dunn, 480 U.S. 294, 301 (1987).

§ 87(2)(g) [Redacted]  
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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
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